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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-657

12 **CHRISTINA GARCIA**  
13 **P.O. Box 968**  
**Brawley, CA 92227**

**A C C U S A T I O N**

14 **Registered Nurse License No. 650436**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about December 31, 2004, the Board of Registered Nursing issued Registered  
23 Nurse License Number 650436 to Christina Garcia (Respondent). The Registered Nurse License  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 October 31, 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Registered Nursing (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,  
6 that the Board may discipline any licensee, including a licensee holding a temporary or an  
7 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
8 Nursing Practice Act.

9 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
11 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the  
12 Code, the Board may renew an expired license at any time within eight years after the expiration.

13 **STATUTORY PROVISIONS**

14 6. Section 2761 of the Code states:

15 The board may take disciplinary action against a certified or licensed  
16 nurse or deny an application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the  
18 following...

19 7. Section 2762 of the Code states:

20 In addition to other acts constituting unprofessional conduct within the  
21 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
22 for a person licensed under this chapter to do any of the following:

23 (a) Obtain or possess in violation of law, or prescribe, or except as  
24 directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
25 himself or herself, or furnish or administer to another, any controlled substance  
26 as defined in Division 10 (commencing with Section 11000) of the Health and  
27 Safety Code or any dangerous drug or dangerous device as defined in Section  
28 4022.

(b) Use any controlled substance as defined in Division 10 (commencing  
with Section 11000) of the Health and Safety Code, or any dangerous drug or  
dangerous device as defined in Section 4022, or alcoholic beverages, to an  
extent or in a manner dangerous or injurious to himself or herself, any other  
person, or the public or to the extent that such use impairs his or her ability to  
conduct with safety to the public the practice authorized by his or her license....

1 **COST RECOVERY**

2 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 **DRUGS**

9 9. Methamphetamine is a Schedule II controlled substance as designated by Health and  
10 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions  
11 Code section 4022.

12 **FACTS**

13 10. On January 29, 2011 at about 2055 hours, Officer D., an officer with the Brawley  
14 Police Department, was dispatched to Respondent's home with regard to an alleged burglary.  
15 Upon arrival, Respondent advised the officer that I.Q. had stolen a Bulova wristwatch from a  
16 table in her home and ran off. Respondent explained that she sometimes hired I.Q. to wash her  
17 car and cut her grass. She told I.Q. to leave earlier in the day because he appeared to be under the  
18 influence of a controlled substance. I.Q. returned to her residence and asked to use her telephone.  
19 Respondent stated she opened the front door to get the telephone from a table located near the  
20 door when I.Q. pushed through the door and grabbed her wristwatch. Respondent described the  
21 watch as silver with a white face surrounded by diamonds and estimated the value of the watch at  
22 \$200 or \$250.

23 11. While the officer was taking Respondent's statement, Respondent's cell phone rang.  
24 Respondent stated the caller was I.Q. and permitted the officer to answer the call. The officer  
25 told I.Q. that Respondent accused him of stealing her wristwatch. I.Q. told the officer he was on  
26 his way back to Respondent's home to speak with him.

27 12. Another officer intercepted I.Q. on B Street and Officer D. went to B Street to  
28 interview I.Q. I.Q. was searched but the watch was not found in his possession. I.Q. was arrested

1 on the basis of Respondent's statements. I.Q. denied taking Respondent's watch and stated that  
2 he was seeing Respondent "on the side" and that she had falsely accused him so he would go  
3 back to prison because I.Q. refused to leave his girlfriend. I.Q. told Officer D. that he was with  
4 Respondent last night and they had used methamphetamines.

5 13. After interviewing I.Q., Officer D. returned to Respondent's home. Respondent  
6 denied using drugs with I.Q. but stated that she took him to the methadone clinic earlier that day.  
7 Respondent agreed to perform some tests. She performed a Rhomberg stand and she estimated  
8 13 seconds to be 30 seconds. Officer D. took Respondent's pulse rate and found it to be elevated  
9 at 120 beats per minute. Officer D. checked Respondent's pupillary reaction and found it to be  
10 slow with slight rebound dilation. Based on Respondent's symptoms, Officer D. believed  
11 Respondent to be under the influence of a controlled substance. Officer H. responded to Officer  
12 D.'s location and performed the same tests and also concluded that Respondent was under the  
13 influence of a controlled substance.

14 14. Later at the police station, I.Q. claimed that he and Respondent spent last night  
15 "doing glass". Glass is slang for methamphetamine. According to I.Q, Respondent then "took  
16 [I.Q.] to the methadone clinic and then to the recycler. After the recycler, [I.Q.] got more glass  
17 and she did a line and then she slammed the rest of it into my neck." Officer D. observed a small  
18 red injection site on I.Q.'s neck. The watch was not found on I.Q. and Respondent was not able  
19 to provide any documentation for the watch.

20 15. While at the station, Respondent agreed to provide a urine sample. Officer D.  
21 performed a preliminary analysis of a portion of the sample using a RediTest. The test produced  
22 a positive result for the presence of amphetamines. The remaining sample was taken to the  
23 laboratory and yielded a positive result for amphetamines.

#### 24 **FIRST CAUSE FOR DISCIPLINE**

##### 25 **(Unprofessional Conduct)**

26 16. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),  
27 for unprofessional conduct for being under the influence of a controlled substance on January 29,  
28

2011, as more fully set forth in paragraphs 10 – 15 and incorporated herein as though set forth in full.

**SECOND CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct – Self-administration of Controlled Substance)**

17. Respondent is subject to disciplinary action under Code section 2762, subdivision (a), for unprofessional conduct in that Respondent obtained and administered a controlled substance to herself, to wit, amphetamines, on or about January 29, 2011, as more fully set forth in paragraphs 10 – 15 and incorporated herein as though set forth in full.

**THIRD CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct – Use of Controlled Substance)**

18. Respondent is subject to disciplinary action under Code section 2762, subdivision (b), for unprofessional conduct in that Respondent used a controlled substance, to wit, amphetamines, on or about January 29, 2011, in a manner dangerous to herself, as more fully set forth in paragraphs 10 – 15 and incorporated herein as though set forth in full.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 650436, issued to Christina Garcia;

2. Ordering Christina Garcia to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: February 21, 2013 for Stacie Ben  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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